



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 017661/0172

2661
#5
SI
07-24-03

Applicant: Toshiyuki SASHIHARA
Title: PRIORITY DATA TRANSFER METHOD
Serial No. 09/814,097
Filed: March 22, 2001
Examiner: Unknown
Art Unit: 2661

RECEIVED

JUL 17 2003

Technology Center 2600

**INFORMATION DISCLOSURE STATEMENT
UNDER 37 CFR §1.56 and 37 CFR §1.97**

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Submitted herewith on Form PTO-SB08 is a list of documents known to Applicant in order to comply with Applicant's duty of disclosure pursuant to 37 CFR 1.56. A copy of each listed document is being submitted to comply with the provisions of 37 CFR 1.97 and 1.98.

The submission of any document herewith, which is not a statutory bar, is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any documents which is determined to be a prima facie prior art reference against the claims of the present application.

TIMING OF THE DISCLOSURE

The instant Information Disclosure Statement is believed to be filed in accordance with 37 C.F.R. 1.97(b), prior to the mailing date of a first Office Action on the merits (first scenario). If that is not the case, such as in a second scenario in which a first Office Action on the merits has been mailed before the filing of the instant Information Disclosure Statement, then either a certification or fee is required, and a certification is provided below. If neither of the first or second scenarios is the case, such as if a final Office Action or a notice of allowance has been mailed by the PTO (third scenario), then both a certification and fee are required, and in that case a certification is provided below and also the PTO is authorized to obtain the necessary fee to have the instant IDS considered, from Foley & Lardner Deposit Account #19-0741.

CERTIFICATION

The undersigned hereby certifies in accordance with 37 C.F.R. §1.97(e)(1) that items of information A2 - A8 listed on the Form PTO SB/08 submitted with this Information Disclosure Statement were first cited in a communication from a foreign patent office in a counterpart foreign application not more than three (3) months prior to the filing of this Statement. Item of information A1 is a U.S. patent that is a counterpart to item of information A6.

RELEVANCE OF EACH DOCUMENT

A translation of a portion of a Japanese Office Action that issued May 6, 2003 with respect to a counterpart Japanese patent application is provided below.

"Note

(For a list of the cited literature, see the List of Cited Literature.)

Claims: 1 through 13

Cited Literature: 1 through 6

(Comments)

1. Regarding the inventions according to Claims 1, 2, 5 through 7, 12, 13

Cited Literature 1 through 3 disclose the establishment of a back-off retry interval according to a packet priority level random number that is generated in a network wherein transmissions are performed using CSMA/CD.

Furthermore, when it comes to calculating a delay time based on a priority level and a random number, the decision as to the formula on which to base the calculation of the delay time is a design item to be established as appropriate by an individual in the industry.

2. Regarding the inventions according to Claims 3, 4, and 10 through 12

Cited Literature 4 (and in particular, see paragraph 54) discloses the establishment of the transmission priority level based on the number of hops.

Consequently, for an individual in the industry, it would be easy to arrive at the inventions according to Claims 3, 4, and 10 through 12 by establishing the packet priority level in the inventions in Cited Literature 1 through 3 based on the number of hops, as disclosed in Cited Literature 4.

3. Regarding the inventions according to Claims 8 and 9

Transmitting continuous data with priority is a well-known technology. (This is disclosed in, for example, paragraph 7 of Cited Literature 5, wherein fragments of a series are transmitted with priority.) Furthermore, [setting] transmission priority according to the length of the data is also a well-known technology. (See, for example, paragraph 50 of Cited Literature 6.)

Notification will be provided if new reasons for rejection are discovered.

List of Cited Literature

1. Japanese Unexamined Patent Application Publication S59-204347

2. Japanese Unexamined Patent Application Publication H5-128059
3. Japanese Unexamined Patent Application Publication S59-91527
4. Japanese Unexamined Patent Application Publication H10-229405
5. Japanese Unexamined Patent Application Publication H11-234286
6. Japanese Unexamined Patent Application Publication H9-312668

Record of Prior Art Literature Search Results

Fields searched - IPC 7th Edition - H04L 12/28, 56; DB name

Prior art literature

Japanese Unexamined Patent Application Publication 2001-119331

This Record of Prior Art Literature Search Results does not constitute a reason for rejection."

Applicant's statements regarding the Japanese Office Action are based on a partial translation that Applicant's representative obtained. These statements should in no way be considered as an agreement by Applicant with, or an admission of, what is asserted in the Japanese Office Action.

Applicant respectfully request that the listed documents be considered by the Examiner and formally be made of record in the present application and that an initialed copy of Form PTO/SB/08 be returned in accordance with MPEP §609.

Respectfully submitted,

July 16, 2003
Date

Phillip J. Articola
Phillip J. Articola
Registration No. 38,819

FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, D.C. 20007-5143
Telephone: (202) 672-5300
Facsimile: (202) 672-5399